

may be taken if either the board's written decision is unacceptable to the mortgagor or no written decision is received from the board within 30 days of the mortgagor's request under paragraph (a) of this section.

**§ 246.7 Notice to tenants.**

At least 30 days before filing a formal request to HUD for preemption of local rent control regulations, the mortgagor shall notify the tenants of its intention to so file. Copies of the Notice shall be:

(a) Delivered directly or by mail to each tenant; and

(b) Posted in at least 3 conspicuous places within each structure or building in which the affected dwelling units are located.

The Notice shall contain the addresses where the materials, which constitute a complete submission as required by § 246.8 in support of the proposed preemption request, are to be made available to tenants as well as the required information in the following equivalent format:

NOTICE TO TENANTS OF INTENTION TO FILE A REQUEST TO HUD FOR PREEMPTION OF LOCAL RENT CONTROL REGULATIONS

Date of Notice \_\_\_\_\_

Take notice that on (Date) we requested the (Name) board to review our application for redetermination of permitted rents.

Take further notice that on (Date), if the (Name) board fails to approve an income level necessary to maintain and operate adequately the project, or to act upon our request, we plan to file a request for preemption of local rent control regulations for (Name of Apartment Complex) with the United States Department of Housing and Urban Development (HUD) which will result in an increase in your rental rate as provided within the terms of your lease. The requested preemption action is supported by the following:

(1) HUD approved Gross Potential Income: Year approved, \_\_\_\_, \$ \_\_\_\_\_.

(2) Current Total Residential Rents Allowed by Local Rent Control Board, \$ \_\_\_\_\_.

(3) Projected Total Annual Residential Rents Allowable Under Local Board Regulations 6 Months After Date of this Notice, \$ \_\_\_\_\_.

(4) Income Required to Operate Project as Supported by Profit and Loss Statement Being Submitted to HUD, \$ \_\_\_\_\_.

Copies of the materials that we intend to submit to HUD in support of our request will

be available during normal business hours as well as one evening a week after business hours which will be (Day) at (Address) for a period of 30 days from the date of this Notice. The materials may be inspected and copied by tenants of (Name of Apartment Complex and HUD Project No.) and if the tenants wish, by legal or other representatives duly authorized in writing to act for one or more of the tenants.

During a period of 30 days from the date of this notice, tenants of (Name of Apartment Complex and HUD Project No.) may submit written comments on the proposed preemption request to us at (Address). Tenant representatives may assist tenants in preparing those comments. The inspection and comment period will be extended as necessary to (a) assure a 30-day comment period on a complete mortgagor's submission and (b) to allow at least 5 days to comment on any written decision made by the board, if the decision is received by the mortgagor on or before the expiration of the thirty-day period and it was not available to the tenants during the first 25 days of the 30-day period. These comments will be transmitted to HUD, along with our evaluation of them and our preemption request. You may also send a copy of your comments directly to HUD at the following address: United States Department of Housing and Urban Development, (address of local HUD field office with jurisdiction over preemption of rents for the project) Attention: Director, Housing Re: (Project No.) and (Name of Apartment Complex). HUD will approve or disapprove the preemption request in whole or in part upon reviewing the materials and comments. When HUD advises us in writing of its decision on our request, you will be notified at least 30 days before any change in the rental structure is put into effect, in accordance with the terms of existing leases.

\_\_\_\_\_  
(Name of mortgagor or managing agent)

The mortgagor shall comply with all representations made in this Notice.

**§ 246.8 Materials to be submitted to HUD in support of preemption request.**

(a) After posting or delivery of the Notice as required by § 246.7, the mortgagor shall immediately send HUD notification of its intention to file a preemption request, to include:

(1) The written Notice to the tenants, which will state the date of its posting and distribution.

(2) An annual Statement of Profit and Loss, on a form prescribed by the